

## STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

## ELIGIBILITY CONDITIONS AND REQUIREMENTS

## Enforcement of Compliance for Nursing Facilities

Civil Money Penalty: Describe the criteria (as required at §1919(h)(2)(A)) for applying the remedy

XXX Specified Remedy

(Will use the criteria and notice requirements specified in the regulation.)

         Alternative Remedy

(Describe the criteria and demonstrate that the alternative remedy is as effective in deterring non-compliance. Notice requirements are as specified in the regulations.)

- §1. Immediate jeopardy. In situations of immediate jeopardy, the Commonwealth shall have the authority to impose (in accordance with 42 CFR §488.430 through 42 CFR §488.444) a civil money penalty in the range of \$3,050-\$10,000 in addition to the remedies of imposing temporary management or terminating the NF's provider agreement. In imposing civil money penalties, the Commonwealth shall comply with all provisions of 42 CFR §488.430 through §488.444 (1995).
- §2. No immediate jeopardy. In accordance with 42 CFR §488.430 through 42 CFR §488.444, the Commonwealth shall:
- A. Deny payment for new admissions, or
  - B. Impose civil money penalties of \$50-\$3,000 per day, or
  - C. Impose both of these remedies
- when there are widespread deficiencies that constitute no actual harm with a potential for more than minimal harm but not immediate jeopardy, or one or more deficiencies that constitute actual harm that is not immediate jeopardy.
- §3. Notice. Either HCFA or the Commonwealth, as appropriate, shall send a prior written notice of the penalty to the facility as set forth by 42 CFR §488.434 (1995).
- §4. The Commonwealth shall have the authority to impose civil money penalties of \$50-\$3,000 per day to any deficiency except when the NF is in substantial compliance. If the Commonwealth imposes a civil money penalty for a deficiency that constitutes immediate jeopardy, the penalty must be in the range of \$3,050-\$10,000 per day. For the purposes of this regulation, substantial compliance shall mean a level of compliance with the requirements of

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participation such that any identified deficiencies pose no greater risk to resident health or safety than the potential for causing minimal harm.

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